

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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TOMMIE E. EVANS,

Petitioner,

OPINION AND ORDER

v.

09-cv-0181-slc

ROBERT HUMPHREYS, Warden,  
Racine Correctional Institution,

Respondent.

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On April 30, 2009, this court entered an order denying petitioner Tommie Evans's request for a stay of his habeas petition brought pursuant to 28 U.S.C. § 2254. The court ordered petitioner to inform the court no later than May 15, 2009 whether he wanted to proceed solely on his exhausted, insufficiency-of-the-evidence claim and abandon his unexhausted claim relating to his lawyer's alleged failure to obtain testing of a Tums bottle left at the crime scene. Petitioner was informed that if the court did not receive any response from him by May 15, 2009, it would enter judgment dismissing the petition without prejudice.

It is now May 27, 2009, and the court has received no response from petitioner. Accordingly,

ORDER

IT IS ORDERED that the petition of Tommie Evans for a writ of habeas corpus, filed March 30, 2009, is DISMISSED WITHOUT PREJUDICE pursuant to Rose v. Lundy, 455 U.S. 509 (1982).

Entered this 28<sup>th</sup> day of May, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge